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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/079, 324 05/14/98 OVERBECK J 09604/012001

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EXAMINER

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ART UNIT

PAPER NUMBER

1743

DATE MAILED:

01/18/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. 09/079,324	Applicant(s) Overbeck et al.
	Examiner Long V. Le	Group Art Unit 1743

Responsive to communication(s) filed on Oct 28, 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ONE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claim

Claim(s) 1-115 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) \_\_\_\_\_ is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims 1-115 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-30, drawn to an apparatus for deposit of fluid samples, classified in class 422, subclass 104 .
  - II. Claims 31-38, drawn to an apparatus for deposit of fluid samples having a flexure system and a driver, classified in class 422, subclass 103.
  - III. Claim 39, 40, 41, 57 and 58, drawn to an apparatus for deposit of fluid samples having deposit pins and mechanism for moving pins together transversely and mechanism for moving each pin independently, classified in class 422, subclass 65.
  - IV. Claims 42-49, 59 and 60, drawn to a deposit mechanism having a pin on a flexure, and a driver, classified in class 73, subclass 864.24.
  - V. Claims 50-56, drawn to an apparatus for deposit of fluid samples having a cleaning system, classified in class 422, subclass 67.
  - VI. Claims 61-71 and 78, drawn to an apparatus for preparation of a microscope slide, classified in class 206, subclass 456.
  - VII. Claims 72-77, 79 and 80, drawn to an apparatus for deposit of fluid samples having means for stopping movement of a depositing pin, classified in class 73, subclass 864.02.
  - VIII. Claims 81-83, drawn to an apparatus having a deposit pin, classified in class 73, subclass 864.01.
  - IX. Claims 84-97, drawn to a fluid deposit arrayer having a compliant spring and motion damping member, classified in class 222, subclass 511.
  - X. Claims 98 and 99, drawn to a deposit head having two flexure mounted pins and a single actuator, classified in class 73, subclass 863.33.
  - XI. Claims 100 and 101, drawn to a deposit head having two independent actuators, classified in class 73, subclass 863.32.

- XII. Claims 102-104, drawn to an aliquot carrier, classified in class 222, subclass 187.
- XIII. Claims 105-108, drawn to a process of printing, classified in class 222, subclass 1.
- XIV. Claims 109-114, drawn to a method of causing a biological compound to interact with another substance, classified in class 436, subclass 54.
- XV. Claim 115, drawn to a method of depositing a fluid with a pin, classified in class 436, subclass 180.

2. The inventions are distinct, each from the other because of the following reasons:

The inventions as presently claimed in Groups I to XII are deemed to be independent inventions for the following reasons: the specific mechanism for repeatedly moving a depositing device without direct contact of a substrate is not required by the claims II-XI. The features of flexure system and driver of claims of group II are not required by the claims of group I and II-XI. Similarly, the feature of independent moving pins of group III is not required by the claims of other groups. Likewise, each of the specific features mentioned in each of the groups above in paragraph is not required by the claimed of other groups.

This relationship is also applicable to the method groups XIII-XV.

3. Inventions I-XII and XIII are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the method as claimed can be used to practice another and materially different process such as a process of dispensing fluids.

4. Inventions I-XII and XIV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus

as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the method as claimed can be used to practice another and materially different process such as a process of laser printing.

5. This relationship is also applicable to inventions II-XI and XV.
6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for one group is not required for others, restriction for examination purposes as indicated is proper.
7. Due to the complex nature of the election/ restriction requirement as stated above, this requirement is mailed to Applicants for review and election.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Long V. Le whose telephone number is (703) 305-3399.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Long V. Le  
Primary Patent Examiner, Group Art Unit 1743  
January 14, 2000.